

MEMO ENDORSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FREDDY M. MOROCCHO, WALTER TACURI on
behalf
of themselves and others similarly
situated,

Plaintiffs,

- against -

GEORGE C. KELLY, and NYACK COLONIAL
CAR WASH, INC.,

Defendants.

INDEX NUMBER: 07 CIV. 2979(MDF) (CLB)

**AFFIRMATION IN SUPPORT OF
MOTION TO BE RELIEVED AS
COUNSEL FOR REMBERTO BURGOS**

MARK D. FOX
United States Magistrate Judge
Southern District of New York

Karen L. Zdanis, being duly sworn, deposes and says:

1. I am the attorney of record for Plaintiff, Remberto Burgos, and as such am fully familiar with the facts stated herein.

2. I make this affidavit in support of the within Motion to Withdraw as counsel for Remberto Burgos in the above matter.

3. This matter was commenced by service of Summons and Complaint in April of 2007 seeking, *inter alia*, recovery of overtime pursuant to Section 16 of the Fair Labor Standards Act and the payment of unpaid tips pursuant to New York Labor Law Section 196.

4. Mr. Burgos retained me to represent him on or about June 14, 2007.

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5. I contacted him again in December of 2007, via his mobile phone, during which time he was living in a different state and indicated it may be difficult for him to return to Rockland County for a deposition, as he would have difficulty getting off from work and may not have the money for the trip to New York.

6. I attempted to reach Mr. Burgos again in February and March of 2008, however the mobile phone number I had previously used was not working, and consequently I was unable to leave a message or reach him by telephone.

7. I also asked the other plaintiffs whether they had a new contact number for Mr. Burgos, however they replied in the negative, and were not able to reach him either.

8. After trying several different methods of reaching Mr. Burgos to schedule his deposition, I was unable to locate him or contact him, and therefore I have been unable to obtain the cooperation of Mr. Burgos, in representing him further in this action. I have no forwarding address for Mr. Burgos, as when he was living in another state in December of 2007, he had no permanent address he could give me, and he alerted me he was not planning to return to Rockland County. There has been a breakdown in the attorney-client relationship, and I

believe that future cooperation by Mr. Burgos will not be forthcoming. Further, the interests of my client may be jeopardized through his own inaction.

9. For the foregoing reasons, I do not think I will be able to provide adequate representation of Mr. Burgos in this action, and therefore request that I be relieved as counsel.

10. I have not made any previous application for the relief requested herein.

WHEREFORE, it is respectfully requested that the within motion to withdraw be granted in all respects and that this court issue an order relieving Karen L. Zdanis, Esq. as counsel for Plaintiff Remberto Burgos, together with such other relief as the Court deems just and proper.



Karen L. Zdanis